

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>EARL L. MASTERS,</b>	:	<b>CIVIL ACTION NO. 1:08-CV-1872</b>
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	<b>(Judge Conner)</b>
	:	
<b>NORFOLK SOUTHERN RAILWAY</b>	:	
<b>COMPANY, INC.,</b>	:	
<b>Defendant/Third-Party Plaintiff</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>JACOBSON COMPANIES, INC., a/k/a</b>	:	
<b>JACOBSON TRANSPORTATION</b>	:	
<b>COMPANY, INC., d/b/a ARNOLD</b>	:	
<b>LOGISTICS,</b>	:	
<b>Third-Party Defendant</b>	:	

**ORDER**

AND NOW, this 1st day of December, 2010, upon consideration of the report of United States Magistrate Judge J. Andrew Smyser (Doc. 87), recommending that the motions to strike filed by defendant Norfolk Southern Railway Company (Docs. 73, 75) and the motion to strike filed by defendant Arnold Logistics LLC (Doc. 77), be denied in part and granted in part, and, following an independent review of the record and noting that defendant Norfolk Southern Railway Company filed objections<sup>1</sup> to the report on October 20, 2010 (Doc. 105), and defendant Arnold Logistics LLC filed objections to the

---

<sup>1</sup> Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at \*3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at \*6 (M.D. Pa. Sept. 8, 2008)).

report on October 21, 2010 (Doc. 107), and the court finding Judge Smyser's analysis to be thorough and well-reasoned, and the court finding defendants' objections to be without merit and squarely addressed by Judge Smyser's report (Doc. 87), it is hereby ORDERED that:

1. The report of Magistrate Judge Smyser (Doc. 87) is ADOPTED.
2. Defendant Norfolk Southern Railway Company's motions to strike (Docs. 73, 75) and Defendant Arnold Logistics LLC's motion to strike (Doc. 77) are GRANTED in part and DENIED in part. The Affidavit of Raymond Duffany is STRICKEN from the record. In all other respects, the motions are DENIED.
3. The motions for summary judgment filed by defendant Arnold Logistics LLC (Doc. 55) and defendant Norfolk Southern Railway Company (Doc. 57) are DENIED.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge